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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/005,129	12/07/2001	Hiroshi Takeuchi	MIT-024-USA-P	8052

7590

11/26/2002

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EXAMINER

HO, THOMAS Y

ART UNIT

PAPER NUMBER

3677

DATE MAILED: 11/26/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/005,129

Applicant(s)

TAKEUCHI, HIROSHI

Examiner

Thomas Y Ho

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/7/01 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because the Abstract exceeds the 150 word limit, and is two paragraphs. Correction is required. See MPEP § 608.01(b).

Drawings

The drawings are objected to under 37 CFR 1.84(h)(5) because Figure 4 show(s) modified forms of construction in the same view. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objections

Claims 3-5 and 7-9 are objected to because of the following informalities: The beveled portions on the connecting protrusions should be called --first beveled portions--, and the beveled portions on the bases should be called --second beveled portions-- to avoid confusion.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Everard
USPN5347672.

As to claim 1, Everard discloses a bendable member, in which:

- A plurality of bars 12 are disposed side by side and connected bendably with each other. The recitation “to allow the whole extent of the connected bars to be shortened and extended and to be curved” is functional language. Claims directed to apparatus must be distinguished from the prior art in terms of structure rather than function. *In re Danly*, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA1959). “[A]pparatus claims cover what a device *is*, not what a device *does*.” *Hewlett-Packard Co. v. Bausch & Lomb Inc.*, 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528, (Fed. Cir. 1990).

Art Unit: 3677

- One of every adjacent two of the bars 12 is provided with a plurality of longitudinal connecting protrusions 20 in the transverse direction on one face of the bar 12 facing the adjacent bar 12.
- Recesses 30 for accepting the respective connecting protrusions 20 are formed in the corresponding face of the adjacent bar 12, in such a manner that the connecting protrusions 20 of each of the bars 12 can be inserted into the corresponding recesses 30 of the adjacent bar 12, to connect the plurality of bars 12 one after another. The recitation “for allowing the extent of the connected bars to be shortened and extended” is functional language. Claims directed to apparatus must be distinguished from the prior art in terms of structure rather than function. *In re Danly*, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA1959). “[A]pparatus claims cover what a device *is*, not what a device *does*.” *Hewlett-Packard Co. v. Bausch & Lomb Inc.*, 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528, (Fed. Cir. 1990).
- Disengagement preventing means are formed in some of the connecting protrusions 20 and in the corresponding accepting recesses 30, so that they are engaged with each other when the respectively adjacent bars 12 are kept farthest away from each other.
- The connecting protrusions 20 have, at the tips and bases thereof, beveled portions for forming the clearances to allow the connected bars 12 to be bent in one direction.

As to claim 2, Everard discloses a bendable member wherein:

- The bar 12' (fig.7) disposed at the end of the bendable bottom member on one side has the accepting recesses 30 only.

As to claim 3, Everard discloses a bendable member wherein:

- Beveled portions are formed on the lower sides at the tips of the connecting protrusions 20 while beveled portions are formed on the upper sides at the bases. The recitation “to use the bendable bottom member as a bendable portion between the waist region and the leg region” is intended use and holds no patentable weight.

As to claim 4, Everard discloses a bendable member wherein:

- Beveled portions are formed on the upper sides at the tips of the connecting protrusions 20 while beveled portions are formed on the lower sides at the bases. The recitation “to use the bendable bottom member as a bendable portion between the waist region and the leg region” is intended use and holds no patentable weight.

As to claim 5, Everard discloses a bendable member wherein:

- The beveled portions at the bases of the connecting protrusions 20 are inclined in adaptation to the desired bending angles with the adjacent bars 12 (fig.4).

As to claim 6, Everard discloses a bendable member wherein:

- Hooks are formed at the tips of the connecting protrusions 20 provided with the disengagement preventing means while steps to be engaged with the hooks are formed in the corresponding accepting recesses 30.

As to claim 7, Everard discloses a bendable member wherein:

- The beveled portions at the bases of the connecting protrusions 20 are inclined in adaptation to the desired bending angles with the adjacent bars 12 (fig.4).

As to claim 8, Everard discloses a bendable member wherein:

- The beveled portions at the bases of the connecting protrusions 20 are inclined in adaptation to the desired bending angles with the adjacent bars 12 (fig.4).

As to claim 9, Everard discloses a bendable member wherein:

- The beveled portions at the bases of the connecting protrusions 20 are inclined in adaptation to the desired bending angles with the adjacent bars 12 (fig.4).

As to claim 10, Everard discloses a bendable member wherein:

- Hooks are formed at the tips of the connecting protrusions 20 provided with the disengagement preventing means while steps to be engaged with the hooks are formed in the corresponding accepting recesses 30.

As to claim 11, Everard discloses a bendable member wherein:

- Hooks are formed at the tips of the connecting protrusions 20 provided with the disengagement preventing means while steps to be engaged with the hooks are formed in the corresponding accepting recesses 30.

As to claim 12, Everard discloses a bendable member wherein:

- Hooks are formed at the tips of the connecting protrusions 20 provided with the disengagement preventing means while steps to be engaged with the hooks are formed in the corresponding accepting recesses 30.

As to claim 13, Everard discloses a bendable member wherein:

- Hooks are formed at the tips of the connecting protrusions 20 provided with the disengagement preventing means while steps to be engaged with the hooks are formed in the corresponding accepting recesses 30.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

USPN4148521 to Van Hook discloses a furniture construction.

USPN4222134 to Degen discloses an under-mattress for beds.

USPN4559656 to Foster discloses a hospital bed.

USPN4785487 to Toran discloses an adjustable electrobed.

USPN5222263 to Magistretti discloses a frame element.

USPN5280658 to Sigl discloses a slat grating insert for a bed.

USPN5369826 to Ikeda discloses a bottom structure of a bed.

USPN5377369 to Shirai discloses a bottom structure of a bed.

USPN5388290 to Shirai discloses a bottom structure of a bed.

USPN5448789 to Shirai discloses a bottom structure of a bed.

USPN5469591 to Nomura discloses a bottom structure for a bed.

USPN5924149 to Weber discloses a bed underframe with slats.

EP0050293A2 to Marpal discloses a slat frame.

EP0444731A1 to van der Celeen discloses a slatted base.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Y. Ho whose email address is thomas.ho@uspto.gov and telephone number is (703) 305-4556. The examiner can normally be reached on M-F 9:30AM-6:30PM.

Art Unit: 3677

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached on (703) 306-4115. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9326.

TYH

November 19, 2002



J. J. SWANN
SUPERVISORY PATENT EXAMINER
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